

Axinn Obtains Dismissal of Monopolization and Attempted Monopolization Suit Against Rapid Aid, Ltd.

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ATTORNEYS

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PRACTICE AREAS

Antitrust

Axinn successfully obtained the dismissal with prejudice of a monopolization and attempted monopolization suit brought against Rapid Aid, Ltd., a Canadian manufacturer of hot-cold therapy products, by its rival Therapearl. Therapearl had alleged that Rapid Aid had filed a sham lawsuit against Therapearl in the Federal Court of Canada. Moving quickly, the Axinn team filed a motion to dismiss the complaint in its entirety within 10 days of being retained, arguing both that the antitrust claims were fatally flawed and that any action arising out of the parties' Canadian dispute should be heard in Canada. In its decision, the U.S. District Court for the District of Maryland agreed with Rapid Aid that the plaintiff's proposed market definition was facially insufficient and that its complaint also failed to allege either monopoly power or a dangerous probability of successful monopolization, and therefore dismissed the plaintiff's Sherman Act claim with prejudice. It also dismissed the plaintiff's request for a declaratory judgment and its state law claims, leaving Rapid Aid free to pursue its original Canadian claims without the overhang of U.S. litigation.